

# Exhibit 1

## **DECLARATION OF ANTHONY MARINO**

### **Introduction**

1. I am an attorney in good standing and licensed to practice in Massachusetts. I have been practicing immigration law for 9 years.
2. I have worked as an attorney at the Irish International Immigrant Center (IIIC) for the last 5 years, and have been the Director of Legal Services for the past 3 years. The IIIC currently represents 33 individuals who have previously been granted or were in the process of applying for deferred action as a result of their own or an immediate family member's need to receive life-saving medical treatment in the United States. These cases are informally known as "medical deferred action" cases.
3. The IIIC's medical deferred action clients include children who cannot file suit on behalf, adults who are absorbed in important health care decisions and in the day-to-day needs of their children's treatment, families who are terrified of public attention and of any real or perceived dispute with the federal government, and adults who are unable to communicate and/or terminally ill.
4. The federal government's decision to end its deferred action program endangers the lives and well-being of these clients. As detailed below, it also harms the IIIC.

### **The Irish International Immigrant Center**

5. The IIIC, previously called the Irish Immigration Center, was founded in 1989 to help connect immigrants with legal services.
6. Today, the IIIC provides services to noncitizens from more than 120 countries.
7. Although legal services continue to be the largest area of our work, the IIIC also 1) provides educational services including English as a Second Language, citizenship, and career classes; 2) provides wellness services including substance use counseling, health screenings, suicide prevention, and other mental health services; and 3) does outreach to the Irish community and other immigrant communities in Boston.
8. As the legal director, I manage a staff of six staff attorneys and two program associates in providing immigration legal services. These services consist of

about 400 direct representation cases at any given time, assistance with immigration forms in more than 400 cases a year, and weekly immigration clinics providing more than 2,000 free consultations every year.

9. Like the clients of the IIC as a whole, the clients that we provide legal services to come from all around the world. Nearly all of our clients are people of color and live below 200% of the poverty line.
10. Many of the IIC's legal services are provided for a fee that is approximately 10% of that ordinarily charged by private attorneys for the same work. For example, we charge \$85 for an adjustment of status application for an asylee or refugee, and \$350 for representation in a complex citizenship application. Many of our clients cannot pay these fees and as a result pay no fee at all.
11. While our office technically assigns a \$500 fee to medical deferred action cases, in none of our current cases was that fee collected. In one case, a client was able to contribute \$100. In the rest, and consistent with our fee policy which provides waivers in cases of disability and severe economic hardship, the fee was waived entirely.
12. The IIC's service area includes Massachusetts. The IIC occasionally provides representation to individuals outside of Massachusetts, for example, when an existing client relocates, but our primary focus is in the state.
13. The IIC's legal services work aims to make legal advice and representation available to a large number of people. These services thus focus on providing free or low-cost representation to people who have affirmative avenues for seeking lawful status, and making information and advice available to many others through thousands of free consultations provided at our legal clinics every year.
14. Although the IIC does sometimes represent clients who are detained and/or in removal proceedings, our experience with these cases has been that they can significantly monopolize the time of the attorneys involved and thus greatly diminish those attorneys' ability to take on other clients or provide legal consultations through our clinics. Due to the large time commitments involved in these cases, our office typically does not agree to take on clients who are in removal proceedings.

### **The IIC's Representation of Individuals With Deferred Action**

15. Since well before my time at the IIC, the organization has represented clients who apply for and receive deferred action from USCIS because they or a family member that they care for has a serious medical need.
16. We currently represent approximately 19 different families or individuals who have medical deferred action, were in the process of renewing it, or were in the process of applying for it for the first time.
17. These clients have come to us in a variety of ways, including through our walk-in clinics, partnerships with area hospitals, and other referrals.
18. The process for applying for medical deferred action has been the same for as long as I am aware. Over the years, I have communicated with USCIS employees about medical deferred action, and have gained an understanding of the manner in which the agency has adjudicated these cases.
19. Medical deferred action applications were filed with the local office of USCIS. These applications consist of a cover memorandum and supporting documentation including affidavits from clients and from physicians who can explain the clients' medical needs and their understanding of the availability of treatment in the client's home country. There is no filing fee for a medical deferred action case.
20. Note that because of recent changes to USCIS's service model—which now favors the use of a centralized 800 number over inquiries to the local office—it is now almost impossible to simply walk in to a USCIS office to file an application for a client. Yet it continued to be the case that deferred action applications could be filed by walking into a local USCIS office. The front desk would take these applications and provide a receipt stamp.
21. My office last filed an application for medical deferred action in this manner on Friday, August 16, 2019 on behalf of a client with terminal breast cancer. The IIC has not received a response to that application.
22. It has always been my understanding that USCIS would only accept medical deferred action applications for noncitizens who were out of lawful immigration status. Thus, if a client had a valid visa but it became apparent that they would not be able to return to their country at the expiration of their stay because of their need for life-saving medical treatment, the individual could not file for deferred action until the day after his status expired. This has been my understanding based on the personal experiences

of attorneys in our office who in the past had attempted to file applications for individuals before the expiration of their period of authorized stay.

23. In my experience, the local USCIS office in Boston always had an officer assigned to deal with deferred action cases for individuals with serious medical needs. If more information was needed, that officer would send a form Request for Evidence or schedule an interview. Applicants for deferred action also had to appear for fingerprints.
24. My understanding is that when the designated local USCIS adjudication officer believed a grant of deferred action was appropriate, the recommendation would be communicated to the Field Office Director, and sent to the District Director and then the Regional Director of USCIS for confirmation, before being returned to the local field office for final approval.
25. When USCIS granted deferred action, the client would receive a form letter communicating that deferred action had been granted for a period of time, typically two years.
26. After those two years, we have had clients successfully complete treatment and become stable enough to return to their home country to continue care. We have sadly had clients pass away while in deferred action, though in those cases it is clear that the program extended a person's life. We also have cases in which we have assisted families in reapplying for deferred action to continue treatment beyond the initial grant period.
27. Deferred action is critical to our clients because it allows them to remain in the United States without being unlawfully present, *see* 8 U.S.C. § 1182(a)(9)(B), permits them to apply for work authorization, 8 C.F.R. § 274a.12(c)(14), provides them some measure of protection from being placed in removal proceedings, and renders them eligible for healthcare through MassHealth.
28. I have never heard of our local Immigration and Customs Enforcement (ICE) offices adjudicating requests for deferred action for medical reasons. The IIC has represented individuals with final orders of removal who have applied to ICE for stays of removal. But I have no reason to believe that ICE would adjudicate a deferred action request presented by individuals who are receiving medical treatment in the United States and—like our medical deferred action clients—do not have final orders of removal and are not in immigration removal proceedings.

### **The IIIC's Partnerships With Area Hospitals**

29. IIIC's work representing critically ill patients in receiving deferred action has led to strong partnerships with local hospitals and provider networks.
30. Since I started at the IIIC, the organization received many referrals from area hospitals, including in cases involving individuals that required life-saving care in the United States and whose only legal option was to apply for deferred action from USCIS.
31. More recently, in order to expand the IIIC's ability to meet the needs of hospital patients for medical deferred action and other legal services, the IIIC has developed more formalized partnerships with two local hospitals that provide specific financial support for this work. These partnerships allow us to deliver legal services to critically ill patients, including consultations and representation for deferred action and other avenues of relief when available.
32. This year the IIIC and our partners fundraised for this collaboration together, highlighting for prospective donors the critically ill patients that had been and could be helped by the IIIC to obtain deferred action.
33. These partnerships are in their early stages, but new funding through these two medical partnerships in 2019 have accounted for the cost of approximately one half of an attorney's time. This new funding allows an attorney to more narrowly focus on the particular needs of our partner providers' patients.
34. The 2019 funding has allowed us to provide full representation to ten new clients who are patients at one of the two partner hospitals, including three who were seeking medical deferred action. However, medical deferred action has been central to our partnerships, even before they were formalized, and nearly all of the families we represent in medical deferred action receive care at one the two partner hospitals.

### **The IIIC's Medical Deferred Action Clients**

35. The IIIC currently represents 19 different families—comprising 33 individuals—at different stages of the deferred action process.
36. Our deferred action clients come from all over the world. Six cases involve Haitian families or individuals; four involve Dominicans. Five cases involve families from Central and South American countries. Three involve African families or individuals. The remaining client is an adult European national.

37. Most of our clients are children with life-threatening illnesses, the parents who care for them, and sometimes the family's other minor children. These clients' families typically come from countries where effective treatment for their conditions is all but impossible.
38. In most cases, detention or removal would be a death sentence.
39. These clients include:
  - The mother of a six-month-old U.S. citizen who suffered a neonatal stroke.
  - The mother of a ten-month-old U.S. citizen who has been hospitalized eight of those ten months with multiple complex diagnoses, including ambiguous genitalia, corneal clouding, and autoimmune interopathy.
  - A six-year-old with multiple diagnoses who is undergoing testing, is confined to a wheelchair, and uses a feeding tube, and his mother.
  - The parents of a six-year-old U.S. citizen with more than 20 complex diagnoses arising from premature birth, including developmental delays, chronic lung disease, pulmonary hypertension, and encephalopathy (brain damage/disease).
  - A seven-year-old with a severe form of epilepsy involving multiple seizures a day and a risk of sudden death, and his mother and sibling.
  - A ten-year-old blinded by eye cancer, and her mother.
  - A 12-year-old with cerebral palsy who is confined to a wheelchair, suffers seizures, and is scheduled for major surgery later this month, and his parents.
  - A 13-year-old with Duchenne's Muscular Dystrophy, and his mother.
  - A 16-year-old with cystic fibrosis and his parents.
  - An 18-year-old with burns over 70% of his body and immobilized arms and hands, who has been undergoing reconstructive surgery in order to clear scar tissue obstructing his mouth and ears, and his mother.
  - A 24-year-old suffering complications from a bone marrow transplant performed to treat his leukemia, and his parents and minor sibling.

- An adult with incurable breast cancer.
40. Seven of the families or individuals we represent currently have deferred action that will expire in 2020. For example, in March, the family of the seven-year-old boy with severe epilepsy will lose their deferred action.
  41. In addition, the IIIC had applied to renew deferred action in two cases based on continuing medical needs. In seven cases, we had filed initial applications, and three cases, we were preparing to file initial applications for deferred action.

### **The Termination of Deferred Action**

42. On August 19, 2019, the IIIC received a denial letter from the USCIS Boston Field Office Director with regard to one of the IIIC's clients. Denials of applications for 6 more families soon followed. A redacted example of one of these denial letters is attached as Exhibit A.
43. These letters were entitled, "DECISION."
44. They were dated between August 15 and 22, 2019.
45. Using identical language, these letters informed my clients that: "U.S. Citizenship and Immigration Service (USCIS) field offices no longer consider deferred action requests, except those made according to the U.S. Department of Homeland Security (DHS) policies for certain military members, enlistees, and their families. As such, your request for deferred action has been denied." Ex. A.
46. They further stated, "The evidence of record shows that, when you submitted your request, you were present in the United States contrary to law. You are not authorized to remain in the United States. If you fail to depart the United States within 33 days of the date of this letter, USCIS may issue you a Notice to Appear and commence removal proceedings against you with the immigration court. This may result in your being removed from the United States and found ineligible for a future visa or other U.S. immigration benefit." Ex. A.
47. One family had just 3 weeks earlier received a letter asking for additional evidence regarding the child's medical condition. The denial letter thus informed them that they could "disregard this request as USCIS will no longer process your deferred action request." A redacted copy of that letter is attached as Exhibit B.



48. Yet another family had been scheduled for an interview that was to take place five days after the denial letter was sent. The denial letter thus informed them that “this interview is cancelled since USCIS will not process your deferred action request.” A redacted copy of that letter is attached as Exhibit C.

### **The Impact of Deferred Action’s Termination**

49. The termination of medical deferred action has thrown our clients’ lives into chaos.
50. The seven families we represent whose applications were denied were stunned and devastated.
51. As other families with pending applications or active deferred action also learned the news, they, too, were heartbroken, terrified, and confused.
52. These families are being forced to reckon with the possibility of pulling their children away from live-saving care or leaving children as young as six months alone in the United States to receive treatment. For the families who were given 33 days to depart, the pressure of that impending deadline was unspeakable.
53. Although the horrifying impact of these policies is, of course, most deeply experienced by our clients, the news has also been felt deeply across the IIIC.
54. Each member of the IIIC’s staff is keenly aware of the consequences that flow from the decision to terminate deferred action, and the young children whose lives hang in the balance.
55. Because of that, since receiving the news of the termination of deferred action on August 19, 2019, the entire staff of the IIIC has been immersed in helping our medical deferred action clients.
56. I and other staff have devoted dozens of hours to speaking by phone or in person with each of our deferred action clients the meaning of this change in policy, the letters that they have received or may receive, and the specific details of their cases. We have been there to keep our clients updated and answer new questions that arise every time the issue is covered in the news media, and to explain different, cruel hypotheticals involving the care of their children. For example, when USCIS stated to the media that ICE would handle deferred action, IIIC staff spent hours discussing this development with the clients in each case.

57. In many cases, we have also been contacted by our clients' health care providers, who also want to understand in painstaking detail the changes and how they will impact our clients.
58. In addition to our legal services staff, the Executive Director has diverted nearly all of his time to managing the crisis. In the absence of any communication directly from USCIS other than the denial notices, our Executive Director has been engaged in non-stop outreach efforts to community partners and with the media in an effort to stay abreast of the latest developments and gather reliable information so that we can properly inform and advise clients.
59. At the urging of some of our clients, we launched an advocacy campaign—including holding a press conference on August 26, 2019, supporting certain clients who wanted to share their story publicly, contacting leaders in various fields, and fielding national media inquiries and requests.
60. Since launching this campaign, the IIIC has been overwhelmed with inquiries from concerned citizens, non-profit organizations, attorneys, religious leaders, and public officials. Because of the secretive nature of the government's actions and the confusion caused by its press statements, many have reached out to us for the latest developments.
61. Since the termination of medical deferred action, the staff attorneys and I have stopped almost all other work, cancelling appointments, halting the scheduling of new meetings, and doing only the minimum necessary work on non-deferred action cases.
62. The IIIC has also stopped taking in new cases due to this additional workload. The overwhelming nature of the work and the impact it is having on our staff is apparent, and I have instructed IIIC attorneys not to take new cases for the foreseeable future.
63. The developments over the last two weeks have also made me largely unavailable to the staff, have taken over our regular meetings, and have required the scheduling of special meetings. Individual meetings with staff and team staff meetings are the times we use to address complications in cases and resolve questions so that cases can move forward. I have had to cancel multiple one-on-one staff meetings, and our team meetings have been entirely consumed by the changes in deferred action. This means that existing cases have slowed, which necessarily slows our ability to take new cases.

64. The termination of medical deferred action has thus significantly cut down on our ability to provide legal services to existing and new non-deferred action clients.
65. In addition to drawing us away from legal services work that is central to our mission, our inability to take on new matters also causes a loss of fees. To date in 2019, the IIIC has received approximately \$12,000 in fees from full representation cases—a comparably small but not insignificant part of our budget. Thus, for every one-week period in which the IIIC does not open new cases, it loses approximately \$350 in revenue. The hold on new cases will have to continue for at least two more weeks just to allow our staff to catch up on the two weeks of work they have not been able to do. If the government continues its pattern of conflicting communications through the press, the hold is likely to be longer.
66. We have also developed a significant backlog of work in review of cases handled on a pro-se assistance basis. These are cases in which volunteer attorneys help applicants to complete basic forms but do not enter an appearance. So far in 2019, these cases have generated roughly an additional \$15,000 in fees for our program, or a rate of about \$425 per week. These cases all require a final review by a staff attorney before they can be filed. Because of the diversion of so many attorney resources, we have amassed a significant backlog of pro-se assistance cases to be reviewed. This means that to clear the backlog, we also have suspended the scheduling of new pro-se appointments for at least two weeks, likely longer, and again depending on how the government's continued actions increase the burden on our staff.
67. Beyond these impacts on our legal services, I have had to cancel two significant prior commitments that I had made. One involved a vicarious trauma institute for which I served on the planning committee, and which was intended to provide training for service providers working with vulnerable populations. Another involved a training with a community partner for which we receive specific funding. If I am unable to reschedule the training, the grant funding could be reduced.
68. The intensity of our work with our medical deferred action shows no signs of abating. When USCIS announced on September 2, 2019 that it would reopen cases filed before August 7, 2019—a substantial relief for several IIIC clients who had been told to depart in 33 days—IIIC staff again dedicated hours to helping clients, medical providers, and others understand this development. Unfortunately, while USCIS's decision gives these families some hope, it is

far from clear that USCIS will handle their applications in the manner it would have prior to its decision to terminate deferred action.

69. Other clients continue to confront the reality of USCIS's termination decision. One IIC client applied for deferred action on August 16, 2019—just after the USCIS cut-off—and appears likely to receive a denial letter. Seven individuals or families that we represent have deferred action that will expire between February and November 2020 if USCIS does not terminate their deferred action sooner.
70. These clients, and the three others for whom we were preparing to file deferred action applications, all have pressing needs for legal and other services that the IIC will attempt to meet. For example, the IIC will need to continue to explore whether there is any possibility that ICE will accept deferred action applications for these clients, as USCIS publicly suggested, whether they must first go through removal proceedings and receive orders of removal in order to be considered for such deferred action, and whether it is advisable for them attempt to present applications to ICE. All of these are complex discussions that are made all the more difficult by the absence of information about USCIS and ICE policies and the shifting positions of the agencies. These discussions and explorations will take time away from the IIC's ability to serve other clients.
71. If the IIC's deferred action clients are placed in removal proceedings, the IIC will represent as many as we possibly can who need our representation. Although we feel a moral commitment to these clients, I know that taking on their representation in removal proceedings will greatly diminish the IIC's ability to continue to provide legal representation in other affirmative cases, including fee-generating cases.
72. Further, the funding we receive from hospitals is largely a consequence of our ability to represent critically ill patients in obtaining deferred action. If we are unable to help patients who need life-preserving treatment get deferred action due to the unavailability of the program, this funding is likely to be cut or eliminated.
73. As a supervisor of eight IIC staff, I recognize that the consequences of the termination of deferred action for our staff go beyond our caseload and finances. Providing support and legal counsel to clients facing the loss of medical deferred action over a sustained period of time is emotionally extremely draining for our staff. Our meetings with our clients over the past two weeks have been long and intensely emotional. Our staff have worked

longer hours than usual. They are dealing daily with the injustice and urgency of seriously ill children threatened with losing life-saving care, and talking to parents facing heart-wrenching decisions. Although the real hardship is that faced by our clients, the effects of vicarious traumatization on our staff are nonetheless real. In the long run, they will contribute to burnout and turnover, which has costs for the organization and make it harder for it to meet its mission.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 4, 2019.

s/ Anthony Marino  
Anthony Marino

# Exhibit A

August 22, 2019

U.S. Department of Homeland  
Security  
U.S. Citizenship and Immigration  
Services  
Boston Field Office  
15 New Sudbury St.  
Boston, MA 02203



U.S. Citizenship  
and Immigration  
Services

**DECISION**

Dear

Thank you for your request for deferred action. U.S. Citizenship and Immigration Service (USCIS) field offices no longer consider deferred action requests, except those made according to the U.S. Department of Homeland Security (DHS) policies for certain military members, enlistees, and their families. As such, your request for deferred action has been denied.

The evidence of record shows that, when you submitted your request, you were present in the United States contrary to law. You are not authorized to remain in the United States. If you fail to depart the United States within 33 days of the date of this letter, USCIS may issue you a Notice to Appear and commence removal proceedings against you with the immigration court. This may result in your being removed from the United States and found ineligible for a future visa or other U.S. immigration benefit. See sections 237(a) and 212(a)(9) of the INA.

To review information regarding your period of authorized stay, check travel compliance, or find information on how to validate your departure from the United States with Customs and Border Protection (CBP), please see (<https://i94.cbp.dhs.gov/I94/#/home>).

If you require additional assistance, forms or filing instructions, we invite you to visit our website at [www.uscis.gov](http://www.uscis.gov) or contact the USCIS Contact Center at 1-800-375-5283.

Sincerely,

Michael J. McCleary

Michael J. McCleary  
Field Office Director  
VB

cc: Megan Elizabeth Parker-Johnson, Attorney

# Exhibit B



August 15, 2019

U.S. Department of Homeland  
Security  
U.S. Citizenship and Immigration  
Services  
Boston Field Office  
15 New Sudbury St.  
Boston, MA 02203



U.S. Citizenship  
and Immigration  
Services

### DECISION

Dear

Thank you for your request for deferred action. U.S. Citizenship and Immigration Service (USCIS) field offices no longer consider deferred action requests, except those made according to the U.S. Department of Homeland Security (DHS) policies for certain military members, enlistees, and their families. As such, your request for deferred action has been denied.

The record indicates that on July 25, 2019, USCIS issued you a request for evidence notice. The requested information was instructed to be submitted by August 28, 2019. However, you may disregard this request as USCIS will no longer process your deferred action request.

The evidence of record shows that, when you submitted your request, you were present in the United States contrary to law. You are not authorized to remain in the United States. If you fail to depart the United States within 33 days of the date of this letter, USCIS may issue you a Notice to Appear and commence removal proceedings against you with the immigration court. This may result in your being removed from the United States and found ineligible for a future visa or other U.S. immigration benefit. See sections 237(a) and 212(a)(9) of the INA.

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If you require additional assistance, forms or filing instructions, we invite you to visit our website at [www.uscis.gov](http://www.uscis.gov) or contact the USCIS Contact Center at 1-800-375-5283.

Sincerely,

A handwritten signature in black ink that reads "Michael J. McCleary" with a stylized flourish at the end.

Michael J. McCleary  
Field Office Director

Cc: Megan Elizabeth Parker-Johnson, Attorney

# Exhibit C

August 16, 2019

U.S. Department of Homeland  
Security  
U.S. Citizenship and Immigration  
Services  
Boston Field Office  
15 New Sudbury St.  
Boston, MA 02203



U.S. Citizenship  
and Immigration  
Services

**DECISION**

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The record indicates that USCIS scheduled you for an interview on August 21, 2019. However, this interview is cancelled since USCIS will not process your deferred action request.

The evidence of record shows that, when you submitted your request, you were present in the United States contrary to law. You are not authorized to remain in the United States. If you fail to depart the United States within 33 days of the date of this letter, USCIS may issue you a Notice to Appear and commence removal proceedings against you with the immigration court. This may result in your being removed from the United States and found ineligible for a future visa or other U.S. immigration benefit. See sections 237(a) and 212(a)(9) of the INA.

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Sincerely,

*Michael J. McCleary*

Michael J. McCleary  
Field Office Director

cc: Mary Louise Freeman-Lynde, Attorney